

**REMARKS**

Claims 3, 7, 8 and 10 have been cancelled without prejudice or disclaimer, and claims 1 and 5 are pending and under consideration. It is respectfully requested that this Amendment After Final be entered as it merely cancels claims. 37 C.F.R. §1.116. Because claims 3, 7, 8, and 10 have been canceled, it is believed that the current application is in condition for allowance. Thus, it is respectfully requested that claims 1 and 5 be allowed to issue. No new matter is presented in this Amendment.

**REJECTIONS UNDER 35 U.S.C. §102:**

**Claims 3, 7, 8 and 10** are rejected under 35 U.S.C. §102 (a), (b), and/or (e) as being anticipated by Moritani et al. (U.S. Patent No. 6,411,591 and/or WO 99/14764) for the reasons of record as set forth in Paragraph No. 12 of the Office Action mailed on October 2, 2008.

Without conceding the correctness of the Examiner's assertions, claims 3, 7, 8, and 10 have been canceled without prejudice or disclaimer, thereby rendering the rejections thereof moot.

**REJECTIONS UNDER 35 U.S.C. §103:**

**Claims 3, 7, 8 and 10** are rejected under 35 U.S.C. §103(a) as being unpatentable over Moritani et al. (U.S. Patent No. 6,411,591 and/or WO 99/14764) as applied above.

**Claims 3, 7, 8 and 10** are further rejected under 35 U.S.C. §103(a) as being unpatentable over IDS reference to Lin et al. (2002 IEEE journal article title "Study of a super-resolution optical structure: polycarbonate/ZnS-SiO<sub>2</sub>/ZnOX/ZnS-SiO<sub>2</sub>/Ge<sub>2</sub>SB<sub>2</sub>Te<sub>3</sub>/ZnS-SiO<sub>2</sub>"), IDS journal article to Fujii et al. (*Jpn. J. Appl. Phys.*, v39, 2000, pp 980-981), Tseng et al. (U.S. Patent No. 6,506,543), and/or Chen (U.S. Patent Application Publication No. 2003/0228462) in view of Moritani et al. (U.S. Patent No. 6,411,591 and/or WO 99/14764) for the reasons of record as set forth in Paragraph No. 12 of the Office Action mailed on October 2, 2008.

Without conceding the correctness of the Examiner's assertions, claims 3, 7, 8, and 10 have been canceled without prejudice or disclaimer, thereby rendering the rejections thereof moot.

**ALLOWABLE SUBJECT MATTER:**

Claims 1 and 5 stand allowed.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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